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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/042,188

01/11/2002

Masaaki Takizawa

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11/17/2005

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

1800 DIAGONAL ROAD

SUITE 370

ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, TOAN D

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No. ✓

10/042,188

Applicant(s)

TAKIZAWA ET AL.

Examiner

Toan D. Nguyen

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/11/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 17-22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,496,522 in view of U.S. Patent No. 5,796,720.

The U.S. Patent No. 6,496,522 are encompassed the claims 17-22 of application. However, U.S. Patent No. 6,496,522 does not expressly disclose bypass means for directly transmitting the received cells when abnormality occurs in said communication terminal. In an analogous art, Yoshida et al. (U.S. Patent No. 5,796,720) disclose bypass means for directly transmitting the received cells when abnormality occurs in said communication terminal (figure 9, col. 12 lines 13-17).

One skilled in the art would have recognized bypass, and would have applied Yoshida et al.'s bypass in Takizawa et al.'s communication system. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Yoshida et al.'s control method of asynchronous data communications in Takizawa et al.'s ATM communication terminal and ATM communication system with the motivation being to provide a detection process requires a shorter period of time than a process in which the node bypass is detected by periodically checking the missing of a monitoring cell (col. 12 lines 26-29).

2. Claims 23-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,496,522 in view of U.S. Patent No. 5,796,720 and U.S. Patent No. 5,521,915.

The U.S. Patent No. 6,496,522 are encompassed the claims 23-26 of application. However, U.S. Patent No. 6,496,522 does not expressly disclose bypass means for directly transmitting the received cells when abnormality occurs in said communication terminal. In an analogous art, Yoshida et al. (U.S. Patent No. 5,796,720) disclose bypass means for directly transmitting the received cells when abnormality occurs in said communication terminal (figure 9, col. 12 lines 13-17).

One skilled in the art would have recognized bypass, and would have applied Yoshida et al.'s bypass in Takizawa et al.'s communication system. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Yoshida et al.'s control method of asynchronous data communications in Takizawa et al.'s ATM communication terminal and ATM communication system with the motivation

being to provide a detection process requires a shorter period of time than a process in which the node bypass is detected by periodically checking the missing of a monitoring cell (col. 12 lines 26-29).

Furthermore, U.S. Patent No. 6,496,522 in view of U.S. Patent No. 5,796,720 does not expressly disclose:

wherein said cell-disassembling unit assembles plural multiplexed signals,  
wherein said cell disassembling unit comprises:  
first storage means for storing a first multiplexed signal of the plural multiplexed signals,

second storage means for storing a second multiplexed signal,  
third storage means for storing the multiplexed signal generated in said multiplexed signal generator,

fourth storage means for storing the data other than the multiplexed signal to be transmitted from said communication terminal, and

read-out control means for controlling the read-out of the multiplexed signals stored in said first to fourth storage means,

wherein said cell multiplexing unit forms the multiplexed signals read-out by said read-out control means into cells and transmits the cell thus obtained.

In an analogous art, Dieudonne et al. (U.S. Patent No. 5,521,915) disclose wherein said cell-disassembling unit assembles plural multiplexed signals, wherein said cell disassembling unit comprises: first storage means for storing a first multiplexed signal of the plural multiplexed signals, second storage means for storing a second

multiplexed signal, third storage means for storing the multiplexed signal generated in said multiplexed signal generator, fourth storage means for storing the data other than the multiplexed signal to be transmitted from said communication terminal, and read-out control means for controlling the read-out of the multiplexed signals stored in said first to fourth storage means, wherein said cell multiplexing unit forms the multiplexed signals read-out by said read-out control means into cells and transmits the cell thus obtained (figure 6, col. 12 line 60 to col. 13 line 58).

One skilled in the art would have recognized cell-disassembling unit, and would have applied Dieudonne et al.'s cell disassembly device in Takizawa et al.'s communication system. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Dieudonne et al.'s synchronous digital channel cell assembly and disassembly device, synchronous digital channel switching center, and asynchronous digital channel switching center in Takizawa et al.'s ATM communication terminal and ATM communication system with the motivation being to provide an operation of the disassembly device in the case of fixed length cells (col. 13 lines 37-38).

3. Claims 27-30 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,496,522. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application's claims 27-30 merely broaden the scope of U.S. Patent No. 6,496,522 claims 1-2 by eliminating a discriminator for discriminating a cell

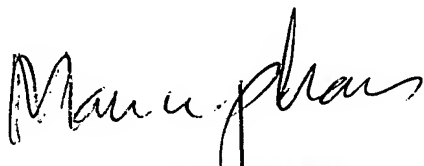
addressed to the communication terminal concerned, a multiplexed signal generator and cell-forming unit.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN  
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**MANU. PHAN**  
**PRIMARY EXAMINER**